IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 22118 of 2007(G)

AGAINST THE ORDER IN EP 320/2004 IN OS.12/1998 of ADDL.SUB COURT,KOTTAYAM
.....

PETITIONER: PETITIONER/JUDGMENT DEBTOR

P.M.ABDUL SALAM, S/O.P.M.MEERANKUTTY,
PROPRIETOR, M/S.RIYA RUBBER TRADES,
K.P.VII/657(R1), K.K.ROAD, KANJIRAPPALLY,
RESIDING AT PARACKAL HOUSE, KANJIRAPPALLY.

BY ADV. SRI.LIJI.J.VADAKEDOM

RESPONDENTS: COUNTER PETITIONER/DECREE HOLDER

THE SOUTH INDIAN BANK LTD.,
KANJIRAPPALLY.

BY S.C. FOR SIB SRI. K. PRABHAKARAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 22218 OF 2007

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Dated this the 18th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the order of the Addl. Sub Judge, Kottayam by ordering sale of the property on 21.7.07. The decree holder is the Bank and more than six lakhs rupees is due to the Bank and no amount is paid from the year 1998 onwards. The execution petition itself was filed in 2004 and two items of property were scheduled to the petition for sale.

2. The Court below found as the Tahsildar has reported that the value of the property can be approximately 12,15,000/- for six cents of land, directed that property to be sold for the purpose of realisation of the amount. Now, the learned counsel for the writ petitioner would submit that the entire six cents need not be sold because sale of half of the portion may be sufficient for discharging the decree debt. The Court below has taken into consideration the entire matter with respect to the sale of two items and thereafter

had ordered only one item to be sold. I do not find much illegality in that order. At the same time if the judgment debtor can wipe off the liability within a reasonable time, unnecessary hardship by selling his property can be averted. The decree holder, Bank also will be only eager enough to get the amount back and not the property. Therefore, taking into consideration all these aspects the writ petition is disposed of as follows:

(1) The Court below is directed to defer the sale posted to 21.7.07.

(2) The writ petitioner is directed to pay the amount due under the decree in six monthly equal installments commencing from 20th August, 2007. If the writ petitioner commits default of payment of any of the two consecutive installments, the decree holder will be at liberty to proceed with the sale of the property in accordance with law as ordered by the Court below.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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